

## § 2.1004

Text embedded within these documents need not be separately entered in searchable full text. Graphic-oriented documents may include—

- (i) Calibration procedures, logs, guidelines, data and discrepancies;
  - (ii) Gauge, meter and computer settings;
  - (iii) Probe locations;
  - (iv) Logging intervals and rates;
  - (v) Data logs in whatever form captured;
  - (vi) Text data sheets;
  - (vii) Equations and sampling rates;
  - (viii) Sensor data and procedures;
  - (ix) Data Descriptions;
  - (x) Field and laboratory notebooks;
  - (xi) Analog computer, meter or other device print-outs;
  - (xii) Digital computer print-outs;
  - (xiii) Photographs;
  - (xiv) Graphs, plots, strip charts, sketches;
  - (xv) Descriptive material related to the information identified in paragraph (b)(1) of this section.
- (3) In an electronic file, subject to the claims of privilege in § 2.1006, only a bibliographic header for each item of documentary material that is not suitable for image or searchable full text.
- (4) An electronic bibliographic header for each documentary material—
- (i) For which a claim of privilege is asserted;
  - (ii) Which constitutes confidential financial or commercial information; or
  - (iii) Which constitutes safeguards information under § 73.21 of this chapter.
- (b) Basic licensing documents generated by DOE, such as the Site Characterization Plan, the Environmental Impact Statement, and the license application, or by NRC, such as the Site Characterization Analysis, and the Safety Evaluation Report, shall be made available in electronic form by the respective agency that generated the document.
- (c) The participation of the host State in the pre-license application phase shall not affect the State's ability to exercise its disapproval rights under section 116(b)(2) of the Nuclear Waste Policy Act, as amended, 42 U.S.C. 10136(b)(2).
- (d) This subpart shall not affect any independent right of a potential party,

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interested governmental participant or party to receive information.

[63 FR 71737, Dec. 30, 1998]

### § 2.1004 Amendments and additions.

Any document that has not been provided to other parties in electronic form must be identified in an electronic notice and made available for inspection and copying by the potential party, interested governmental participant, or party responsible for the submission of the document within five days after it has been requested unless some other time is approved by the Pre-License Application Presiding Officer or the Presiding Officer designated for the high-level waste proceeding. The time allowed under this paragraph will be stayed pending Officer action on a motion to extend the time.

[63 FR 71737, Dec. 30, 1998]

### § 2.1005 Exclusions.

The following material is excluded from the requirement to provide electronic access, either pursuant to § 2.1003, or through derivative discovery pursuant to § 2.1019(i)—

- (a) Official notice materials;
- (b) Reference books and text books;
- (c) Material pertaining exclusively to administration, such as material related to budgets, financial management, personnel, office space, general distribution memoranda, or procurement, except for the scope of work on a procurement related to repository siting, construction, or operation, or to the transportation of spent nuclear fuel or high-level waste;
- (d) Press clippings and press releases;
- (e) Junk mail;
- (f) References cited in contractor reports that are readily available;
- (g) Classified material subject to subpart I of this part;
- (h) Readily available references, such as journal articles and proceedings, which may be subject to copyright.

[63 FR 71738, Dec. 30, 1998]

### § 2.1006 Privilege.

(a) Subject to the requirements in § 2.1003(a)(4), the traditional discovery privileges recognized in NRC adjudicatory proceedings and the exceptions

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from disclosure in § 2.790 may be asserted by potential parties, interested governmental participants, and parties. In addition to Federal agencies, the deliberative process privilege may also be asserted by State and local government entities and Indian Tribes.

(b) Any document for which a claim of privilege is asserted, but is denied in whole or in part by the Pre-License Application Presiding Officer or the Presiding Officer, must be provided in electronic form by the party, interested governmental participant, or potential party that asserted the claim to—

(1) The other participants; or

(2) To the Pre-License Application Presiding Officer or to the Presiding Officer, for entry into a Protective Order file, if the Pre-License Application Presiding Officer or the Presiding Officer so directs under §§ 2.1010(b) or 2.1018(c).

(c) Notwithstanding any availability of the deliberative process privilege under paragraph (a) of this section, circulated drafts not otherwise privileged shall be provided for electronic access pursuant to § 2.1003(a).

[63 FR 71738, Dec. 30, 1998; 64 FR 15920, Apr. 2, 1999]

### § 2.1007 Access.

(a)(1) A system to provide electronic access to the Licensing Support Network shall be provided at the headquarters of DOE, and at all DOE Local Public Document Rooms established in the vicinity of the likely candidate site for a geologic repository, beginning in the pre-license application phase.

(2) A system to provide electronic access to the Licensing Support Network shall be provided at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room beginning in the pre-license application phase.

(3) [Reserved]

(b) Public availability of paper and electronic copies of the records of NRC and DOE, as well as duplication fees, and fee waiver for those records, is governed by the regulations of the respective agencies.

[63 FR 71738, Dec. 30, 1998, as amended at 64 FR 48949, Sept. 9, 1999]

### § 2.1008 [Reserved]

### § 2.1009 Procedures.

(a) Each potential party, interested governmental participant, or party shall—

(1) Designate an official who will be responsible for administration of its responsibility to provide electronic files of documentary material ;

(2) Establish procedures to implement the requirements in § 2.1003;

(3) Provide training to its staff on the procedures for implementation of the responsibility to provide electronic files of documentary material;

(4) Ensure that all documents carry the submitter's unique identification number;

(5) Cooperate with the advisory review process established by the NRC under § 2.1011(d).

(b) The responsible official designated pursuant to paragraph (a)(1) of this section shall certify to the Pre-License Application Presiding Officer that the procedures specified in paragraph (a)(2) of this section have been implemented, and that to the best of his or her knowledge, the documentary material specified in § 2.1003 has been identified and made electronically available. The responsible official shall update this certification at twelve month intervals. The responsible official for the DOE shall also update this certification at the time of submission of the license application.

[63 FR 71738, Dec. 30, 1998]

### § 2.1010 Pre-License Application Presiding Officer.

(a)(1) The Commission may designate one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority on the matter to serve as the Pre-License Application Presiding Officer to rule on disputes over the electronic availability of documents during the pre-license application phase, including disputes relating to privilege, and disputes relating to the implementation of the recommendations of the Advisory Review Panel established under § 2.1011(d).